

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY**

WILLIAM JOSEPH KESSLER, III,

Petitioner,

v.

CIVIL ACTION NO. 5:22-cv-551

CORNELIUS RUSSELL LEWIS,  
GREG TANNER,  
JOHN W. GALLAGHER, JR.,  
HONORABLE JUDGE H. L.  
KIRKPATRICK, III, and  
CPL. NEAL JAMES SMITH,

Respondent.

**ORDER**

Pending are Mr. Kessler’s Application to Proceed Without Prepayment of Fees, [ECF 1 and 6], and Complaints [ECF 2 and 7], filed December 5, 2022, and December 27, 2022. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Aboulhosn filed his PF&R on February 15, 2024, Magistrate Judge Aboulhosn recommended that the Court deny Mr. Kessler’s Applications to Proceed Without Prepayment of Fees or Costs [ECF 1 and 6], Dismiss Mr. Kessler’s Complaints [ECF 2 and 7], and remove this matter from the Court’s docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the

report or specified proposed findings or recommendations *to which objection is made.*” (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on March 4, 2024. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [ECF 9], **DENIES** Mr. Kessler’s Applications to Proceed Without Prepayment of Fees or Costs [ECF 1 and 6], **DISMISSES** Mr. Kessler’s Complaints [ECF 2 and 7], and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: April 4, 2024



*Frank W. Volk*  
 Frank W. Volk  
 United States District Judge